



General Assembly

February Session, 2008

Raised Bill No. 698

LCO No. 3334

03334_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE CALCULATION, REDUCTION AND
WAIVER OF PROBATE FEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-107 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2008*):

3 (a) The basic costs for all proceedings in the settlement of the estate
4 of any deceased person, including succession and estate tax
5 proceedings, shall be in accordance with the provisions of this section.

6 (b) For estates in which proceedings were commenced on or after
7 July 1, 2008, or estates where any fee was due and payable on July 1,
8 2008, costs shall be computed as follows:

9 (1) The basis for costs shall be (A) the greatest of (i) the gross estate
10 for succession tax purposes, as provided in section 12-349, (ii) the
11 inventory, including all supplements thereto, (iii) the Connecticut
12 taxable estate, as defined in section 12-391, or (iv) the gross estate for
13 estate tax purposes, as provided in chapters 217 and 218, minus any
14 portion of such gross estate for estate tax purposes that represents the

15 amount of any proceeds from a life insurance policy, or the fair market
 16 value of any real property or tangible personal property of the
 17 deceased person situated outside of this state, plus (B) all damages
 18 recovered for injuries resulting in death, minus any hospital and
 19 medical expenses for treatment of such injuries resulting in death,
 20 minus any hospital and medical expenses for treatment of such injuries
 21 that are not reimbursable by medical insurance, and minus the
 22 attorney's fees and other costs and expenses of recovering such
 23 damages. Any portion of the basis for costs that is determined by
 24 property passing to the surviving spouse shall be reduced by fifty per
 25 cent. Except as provided in subdivision (3) of this subsection, in no
 26 case shall the minimum cost be less than twenty-five dollars.

27 (2) Except as provided in subdivisions (3) and (4) of this subsection,
 28 costs shall be assessed in accordance with the following table:

T1	<u>Basis for Computation</u>	
T2	<u>Of Costs</u>	<u>Total Cost</u>
T3	<u>0 to \$500</u>	<u>\$25</u>
T4	<u>\$501 to \$1,000</u>	<u>\$50</u>
T5	<u>\$1,000 to \$10,000</u>	<u>\$50, plus 1% of all</u>
T6		<u>in excess of \$1,000</u>
T7	<u>\$10,000 to \$500,000</u>	<u>\$150, plus .35% of all</u>
T8		<u>in excess of \$10,000</u>
T9	<u>\$500,000 to \$4,754,000</u>	<u>\$1,865, plus .25% of all</u>
T10		<u>in excess of \$500,000</u>
T11	<u>\$4,754,000 and over</u>	<u>\$12,500</u>

29 (3) Notwithstanding the provisions of subdivision (1) of this
 30 subsection, if the basis for costs is less than ten thousand dollars and a
 31 full estate is opened, the minimum cost shall be one hundred fifty
 32 dollars, except that the Court of Probate may reduce or waive costs
 33 required by this subsection, in accordance with guidelines established
 34 by the Probate Court Administrator pursuant to subsection (m) of this
 35 section, (A) if the executor or administrator of the will submits an

36 affidavit, in such form as the Probate Court Administrator may
 37 prescribe, that the gross taxable estate includes no cash assets, and (B)
 38 after consultation with the Probate Court Administrator.

39 (4) In estates where the gross taxable estate is less than six hundred
 40 thousand dollars, in which no succession tax return is required to be
 41 filed, a probate fee of .1 per cent shall be charged against non-solely-
 42 owned real estate, in addition to any other fees computed under this
 43 section.

44 [(b) For] (c) Except for estates where any fee was due and payable
 45 on July 1, 2008, for estates in which proceedings were commenced on
 46 or after April 1, 1998, and prior to July 1, 2008, costs shall be computed
 47 as follows:

48 (1) The basis for costs shall be (A) the gross estate for succession tax
 49 purposes, as provided in section 12-349, the inventory, including all
 50 supplements thereto, the Connecticut taxable estate, as defined in
 51 section 12-391, or the gross estate for estate tax purposes, as provided
 52 in chapters 217 and 218, whichever is greater, plus (B) all damages
 53 recovered for injuries resulting in death, minus any hospital and
 54 medical expenses for treatment of such injuries resulting in death,
 55 minus any hospital and medical expenses for treatment of such injuries
 56 that are not reimbursable by medical insurance, and minus the
 57 attorney's fees and other costs and expenses of recovering such
 58 damages. Any portion of the basis for costs that is determined by
 59 property passing to the surviving spouse shall be reduced by fifty per
 60 cent. Except as provided in subdivision (3) of this subsection, in no
 61 case shall the minimum cost be less than twenty-five dollars.

62 (2) Except as provided in subdivisions (3) and (4) of this subsection,
 63 costs shall be assessed in accordance with the following table:

T12 Basis for Computation
 T13 Of Costs

Total Cost

T14	0 to \$500	\$25
T15	\$501 to \$1,000	\$50
T16	\$1,000 to \$10,000	\$50, plus 1 % of all
T17		in excess of \$1,000
T18	\$10,000 to \$500,000	\$150, plus .35% of all
T19		in excess of \$10,000
T20	\$500,000 to \$4,754,000	\$1,865, plus .25% of all
T21		in excess of \$500,000
T22	\$4,754,000 and over	\$12,500

64 (3) Notwithstanding the provisions of subdivision (1) of this
65 subsection, if the basis for costs is less than ten thousand dollars and a
66 full estate is opened, the minimum cost shall be one hundred fifty
67 dollars.

68 (4) In estates where the gross taxable estate is less than six hundred
69 thousand dollars, in which no succession tax return is required to be
70 filed, a probate fee of .1 per cent shall be charged against non-solely-
71 owned real estate, in addition to any other fees computed under this
72 section.

73 [(c)] (d) For estates in which proceedings were commenced on or
74 after July 1, 1993, and prior to April 1, 1998, costs shall be computed as
75 follows:

76 (1) The basis for costs shall be: (A) The gross estate for succession
77 tax purposes, as provided in section 12-349, or the inventory, including
78 all supplements thereto, whichever is greater, plus (B) all damages
79 recovered for injuries resulting in death, minus any hospital and
80 medical expenses for treatment of such injuries that are not
81 reimbursable by medical insurance, and minus the attorney's fees and
82 other costs and expenses of recovering such damages. Any portion of
83 the basis for costs that is determined by property passing to the
84 surviving spouse shall be reduced by fifty per cent. Except as provided
85 in subdivision (3) of this subsection, in no case shall the minimum cost

86 be less than ten dollars.

87 (2) Except as provided in subdivision (3) of this subsection, costs
88 shall be assessed in accordance with the following table:

T23	Basis for Computation	
T24	Of Costs	Total Cost
T25	0 to \$1,000	\$10.00
T26	\$1,000 to \$10,000	\$10, plus 1% of all
T27		in excess of \$1,000
T28	\$10,000 to \$500,000	\$100, plus .30% of all
T29		in excess of \$10,000
T30	\$500,000 to \$4,715,000	\$1,570, plus .20% of all
T31		in excess of \$500,000
T32	\$4,715,000 and over	\$10,000

89 (3) If the basis for costs is less than ten thousand dollars and a full
90 estate is opened, the minimum cost shall be one hundred dollars.

91 [(d)] (e) For estates in which proceedings were commenced on or
92 after July 1, 1983, and prior to July 1, 1993, costs shall be computed as
93 follows:

94 (1) The basis for costs shall be: (A) The gross estate for succession
95 tax purposes, as provided in section 12-349, minus one-third of the first
96 fifty thousand dollars of any part of the gross estate for succession tax
97 purposes that passes other than by will or under the laws of intestacy,
98 plus (B) all damages recovered for injuries resulting in death, minus
99 any hospital and medical expenses for treatment of such injuries that
100 are not reimbursable by medical insurance, and minus the attorney's
101 fees and other costs and expenses of recovering such damages.

102 (2) Costs shall be assessed in accordance with the following table:

T33	Basis for Computation	
T34	Of Costs	Total Cost

T35	0 to \$1,000	\$10.00
T36	\$1,000 to \$10,000	\$10, plus 1% of all
T37		in excess of \$1,000
T38	\$10,000 to \$100,000	\$100, plus .30% of all
T39		in excess of \$10,000
T40	\$100,000 to \$200,000	\$370, plus .25% of all
T41		in excess of \$100,000
T42	\$200,000 to \$500,000	\$620, plus .2% of all
T43		in excess of \$200,000
T44	\$500,000 to \$1,000,000	\$1,220, plus .15% of all
T45		in excess of \$500,000
T46	\$1,000,000 to \$5,000,000	\$1,970, plus .125% of all
T47		in excess of \$1,000,000
T48	\$5,000,000 and over	\$6,970, plus .1% of all
T49		in excess of \$5,000,000

103 [(e)] (f) For estates in which proceedings were commenced prior to
 104 July 1, 1983, costs shall be computed as follows:

T50	With respect to any estate	Costs computed under:
T51	in which any proceedings	
T52	were commenced or	
T53	succession tax documents filed:	
T54	Prior to January 1, 1968	Section 45-17 of the
T55		1961 supplement to
T56		the general statutes
T57	Prior to July 1, 1969, but	Section 45-17a of the
T58	on or after January 1, 1968	1967 supplement to
T59		the general statutes
T60	Prior to July 1, 1978, but	Section 45-17a of the
T61	on or after July 1, 1969	1969 supplement to
T62		the general statutes
T63	Prior to July 1, 1983, but	Section 45-17a of the

T64	on or after July 1, 1978	general statutes,
T65		revised to
T66		January 1, 1983

105 ~~[(f)]~~ (g) If more than one hearing is held in any matter under this
106 section, an additional charge of twenty-five dollars shall be payable to
107 the court by the estate, or, in the discretion of the court, by any
108 interested party against whom the court shall assess such additional
109 charge.

110 [(g)] (h) If the total time of any one hearing in the matter exceeds
111 one hour, an additional charge of twenty-five dollars per hour for each
112 hour in excess of the first hour shall be payable to the court by the
113 estate, or at the discretion of the court by any interested party against
114 whom the court shall assess the additional charge, provided the
115 additional charge shall not exceed three hundred dollars.

116 [(h)] (i) A charge of fifty dollars shall be payable to the court by any
117 creditor applying to the Court of Probate pursuant to section 45a-364
118 or 45a-401 for consideration of a claim. If such claim is allowed by the
119 court, the court may order the fiduciary to reimburse the charge from
120 the estate.

121 ~~[(i)]~~ (j) A charge of fifty dollars for an appeal shall be payable to the
122 court by the appellant.

123 [(j)] (k) A charge of fifty dollars plus the actual costs of rescheduling
124 the adjourned hearing shall be payable to the court by any party who
125 requests an adjournment of a scheduled hearing or whose failure to
126 appear necessitates an adjournment, provided the court may waive the
127 charge and costs for cause shown.

128 [(k)] (l) In no event shall any fee exceed ten thousand dollars for any
129 estate in which proceedings were commenced prior to April 1, 1998,
130 and twelve thousand five hundred dollars for any estate in which
131 proceedings were commenced on or after April 1, 1998.

132 (m) The Probate Court Administrator may adopt guidelines for the
133 reduction or waiver of fees under this section for gross taxable estates
134 that contain no cash assets.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2008</i>	45a-107
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Statement of Purpose:

To (1) exempt out-of-state property and life insurance proceeds from the calculation of the gross estate for the purpose of calculating statutory probate fees, (2) permit the probate courts, in consultation with the Probate Court Administrator and based on the administrator's guidelines, to reduce or waive statutory probate fees for estates with no cash assets, and (3) permit such changes to be applied to outstanding probate fees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]